



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/519,994

09/07/2005

Peter Mills

2004\_2059A

5120

513

7590

09/29/2009

WENDEROTH, LIND & PONACK, L.L.P.

1030 15th Street, N.W.,

Suite 400 East

Washington, DC 20005-1503

EXAMINER

KRUER, KEVIN R

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

09/29/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,994	<b>Applicant(s)</b> MILLS ET AL.	
	<b>Examiner</b> KEVIN R. KRUER	<b>Art Unit</b> 1794	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on August 27 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 50-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 50-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/27/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/27/09 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 53 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. There is no support for embodiment (ix) in the specification.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 50, from which claim 53 depends, requires the film

Art Unit: 1794

to comprise components (a) and (b). It is not clear whether compositions (i) through (ix) are added to components (a) and (b) or further limit components (a) and (b).

Some embodiments, such as composition (ix) would not read on (a) and (b).

Furthermore, the specification would not contain support for compositions (i) through (ix) blended with components (a) and (b).

***.Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 34-36 and 38-47 are rejected under 35 U.S.C. 102(b) as being anticipated by WO99/62987 (Taniguchi) as evidenced by US 4,093,342. Herein US 6,541,123 is herein relied upon as an English language equivalent of said WO document.

Taniguchi teaches a film comprising a propylene/ethylene random copolymer (col 8, lines 11+-component C of the composition taught in Taniguchi) and a non-crystalline propylene block copolymers (col 3, lines 3+-component A of Taniguichi). Said blend reads on composition (vi) of claim 53. With respect to claim 57, the block copolymer (component A) may comprise 30-100wt% of the composition (col 5, lines 47+). Said teaching is herein understood to be sufficiently specific to read on the claimed range of claim 57. The random copolymer preferably comprises ethylene in amounts of less than 30wt% (col 8, lines 10+)-which is herein understood to be sufficiently specific to read on the ethylene content of claim 54. With regards to claims 55 and 56, the block

Art Unit: 1794

copolymer comprises less than 10wt% ethylene (col 3, lines 31+). The degree of orientation may be 5-7 in the machine and traverse direction (col 11, lines 6+) when blown or up to 5 times in each direction when drawn.

Taniguchi teaches the blown film has a storage modulus ( $E'$ ) of from  $5.0 \times 10^8$  dyn/cm<sup>2</sup> to  $5.0 \times 10^9$  dyn/cm<sup>2</sup> and a loss tangent of from 0.2-0.8 (col 5, lines 58+; see also examples). Note, the loss tangent is the ratio of loss modulus to storage modulus. Taniguchi further teaches the blown film may be further oriented 1.2 to 5 times in each direction (col 11, lines 12+). Dynamic storage modulus is known to increase with orientation (see US 4,093,342-col 2, lines 62-64). Thus, the examiner takes the position that the oriented film of Taniguchi inherently meets the claimed dynamic storage and loss modulus since the film is compositionally and structurally identical to the claimed film.

With regards to claim 53, the composition may further comprise a styrenic block copolymer (abstract). In said embodiment, the propylene block copolymer is understood to read on the claimed propylene component. Since component A comprises 30-100% of the composition, the styrenic block is understood to comprise 70-0% of the composition.

With regard to claim 52, since component A comprises 30-100% of the composition, component C is understood to comprise 0-70wt% of the composition-herein sufficiently specific to anticipate the claimed range of claim 51.

With regards to claims 58-60, the examiner takes notice that the storage modulus and loss modulus of a non-oriented or a balanced film is plane-isotropic (see US 4,942,087).

With regards to claims 62 and 63, said film is used for stretch packaging which the examiner understands to read on the claimed label and graphic art display embodiments since such packaging is typically used as labels. Furthermore, the examiner takes the position that any article is inherently squeezable to some extent.

The examiner notes the moduli are measured at a different frequency and temperature. But the examiner takes the position that the claimed moduli are inherent to the film of Taniguchi since the film is compositionally and structurally identical to the claimed film.

### ***Response to Arguments***

Applicant's arguments filed August 27, 2009 have been fully considered but they are moot in view of the new grounds of rejection. Specifically, the claimed invention is now understood to be anticipated by the oriented embodiments of Taniguchi.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN R. KRUEER whose telephone number is (571)272-1510. The examiner can normally be reached on Monday-Friday.

Art Unit: 1794

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin R Kruer/  
Primary Examiner, Art Unit 1794